

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

EZEKIAL SMITH,

Plaintiff,

v.

Civ. 12-699 WJ/GBW

MELISSA ORTIZ *et al.*

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S PROPOSED FINDINGS AND  
RECOMMENDED DISPOSITION**

This matter comes before the Court on a review of the record. Plaintiff filed a complaint alleging violations of his First, Eighth, and Fourteenth Amendment rights under the United States Constitution pursuant to 28 U.S.C. § 1983, as well as for violation of the Americans With Disabilities Act (ADA) on June 27, 2012. *Doc. 1*. He filed a motion to amend his Complaint on May 3, 2013, which was granted on July 24, 2013. *Docs. 40, 45*. Defendants Melissa Ortiz and Cody Dunning filed a *Martinez* report and motion for summary judgment on October 4, 2013. *Doc. 60*.

The Magistrate Judge filed an initial Proposed Findings and Recommended Disposition (PFRD) on October 30, 2013 recommending dismissal of Plaintiff's action against Defendants Ortiz and Dunning for failure to exhaust administrative remedies. *Doc. 62*. I adopted the PFRD on November 22, 2013. On January 24, 2014, the

Magistrate Judge filed a second PFRD recommending dismissal of the remaining Defendant, Dr. Norbert Graf, on the same basis of failure to exhaust administrative remedies. *Doc. 64*. Plaintiff has filed no objections to the PFRD, and, upon review of the record, I concur with the Magistrate Judge's findings and recommendations.

Wherefore, IT IS HEREBY ORDERED that the Magistrate Judge's Proposed Findings and Recommended Disposition, *doc. 64*, is ADOPTED. Plaintiff's Complaint is DISMISSED with prejudice.

  

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UNITED STATES DISTRICT JUDGE